

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1828 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

MOHANBHAI MORARBHAI JARIWALA

Versus

THE COLLECTOR, SURAT

MR BA SURTI for the petitioner

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/06/2000

CAV JUDGEMENT

1. Relying on a proviso to subsection 1 of section 6 A of the Essential Commodities Act. 1955 the only contention that has been made by the learned counsel for the petitioner is that contravention of the orders framed under section 3 of the said Act, the owner of the vehicle- petitioner herein who used it to carry essential

commodities has option to pay in lieu of the confiscation of the vehicle fine not exceeding the market price on the date of the seizure of the essential commodities sought to be carried in the vehicle. But the authorities below have imposed the fine of 20% of the value of the vehicle which is exceeding the market price on the date of the seizure of the essential commodities.

2. To appreciate this contention raised by the learned counsel for the petitioner the facts of this case in brief are to be stated. On 4.5.1993, the Civil Supply Officer, Surat got an information that from the premises known as "Campus Mohanbhai ni Wadi" unauthorisedly the petrol products are being sold. The premises were inspected and on inspection thereof it is found that there was underground tank which contained some liquid similar to petrol. Some barrels were also found which also contained similar liquid. The vehicle and tank in dispute were also found in the premises. The Civil Supply Officer has recorded the statements of watchman who has stated that the said chemicals (liquid) were purchased from Bombay and it was sold in retail in the market. It is found that the petitioner is the occupier of the Campus and in his premises this solvent is being sold. The Civil Supply Officer having a reason to believe that the petitioner committed breach of the orders framed under section 3 of the Essential Commodities Act, 1955, seized the liquid similar to petrol (solvent) worth of Rs. 79,043.36 ps., tanker worth of Rs. 4,50,000/- and other equipments worth of Rs. 21,098/-. In all the amount of the seized goods was Rs. 5,50,141.36 ps. The collector, Surat- respondent no.1 herein issued a notice to the petitioner on 4.4.1994 to show cause as to why seized goods should not be confiscated. The petitioner submitted his reply to the show cause notice. He has come up with a defence that he has nothing to do with this premises. It is his say that this premises were let out by his father to one Ramsinh Harasinh Rathod who is doing business of chemical Shri Ramsinh Harasinh Rathod was stated to be a friend of his father. The liquid which was seized was found to be petroleum hydrocarbon solvent. This defence of the petitioner was not accepted by the authority. It is held by the respondent no.1 that the petitioner is a person who is doing this business of sale of solvent and accordingly the ordered for confiscation of 4268 liters thereof. In lieu of the confiscation of the equipments and truck, the authority ordered for payment of fine of 20% of the cost of equipments and the vehicle. This order has been challenged by the petitioner before the State Government by filing a revision application and the

same has been dismissed and hence this Special Civil Application.

3. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner. Technically the contention may be correct to some extent but looking to the fact that the petitioner is involved in the business of selling of solvent which is very very serious matter, the question does arise whether this Court should grant relief under Article 227 of the Constitution to the petitioner or not. 20 % of the cost of vehicle comes to Rs. 90,000/- and the cost of essential commodities i.e. solvent seized is of Rs. 79,043.36 ps. In the aforesaid proviso to subsection 1 of section 6 A of the Essential Commodities Act, 1995, the respondent nos. 1 and 2 have power to impose a fine not exceeding the market price on the date of the seizure of the essential commodities sought to be carried in the vehicle. As per this provision the authority could have imposed a fine upon the petitioner for this vehicle upto Rs. 79,043.36 ps. Difference in between 20 % of the cost of truck and this amount is of Rs. 10,957/-. The illegal activities in which the petitioner is found involved, in fact, are very serious as he is selling solvent which is largely used for adulteration of the petroleum product (petrol-diesel). This Court is not to liberally grant relief to the litigants of this character. Here technically, as stated earlier, the learned counsel for the petitioner may be correct to some extent but as the difference in the amount of the 20 % of the cost of the vehicle and cost of the essential commodities seized on the date of the seizure is not substantial only on this technicalities, I do not consider it to be a fit case where relief has to be granted to the petitioner under Article 227 of the Constitution of India. The growth of activities of selling of solvent to the petroleum products dealers in the State is increasing. In such matter where a case of the sale of solvent has been reported to the authority, the authority has to deal with the same severely. The petitioner is the owner of the vehicle and a person carrying a business of selling solvent to the petroleum dealer. Underlining scheme of the Act suggest that this provision appear to have been inserted for the benefits of those bonafide owners of the vehicle who were found carrying the essential commodities seized for contravention of the orders framed under section 3 of the Act aforesaid. But here is a case where the owner of the vehicle is the person who himself is carrying on this illegal activity. Even to such person such benefits are to be given, it is a matter for the consideration of

Parliament. If both these classes of owners of the vehicle involved in such activities are put at par then certainly it will be detrimental to the public interest as it will give encouragement to the owner of the vehicle who himself involved in such activities as he will get his vehicle release on payment of the fine i.e. 20% of the cost of essential commodities confiscated, as what it is contended in this case. As said earlier, this is not matter for the Court but for the Parliament. Under its discretion power under Article 227 of the Constitution, this Court is not under an obligation to grant relief even in the case where some illegality with the action of the Authorities is found. The conduct of the petitioner as well as the larger interest of public is very relevant and material in the matter where he has come up before the Court for relief under its extra ordinary equitable jurisdiction. In this case the petitioner is found involved in illegal activities of sale of solvent and only on this technical ground, more so when in substance, difference between the amount of 20 % of the cost of the truck and the price of the essential commodities confiscated is not substantial, he cannot be granted any relief under Article 227 of the Constitution. This petition fails and the same is dismissed. Interim relief, if any, granted stands vacated. No order as to costs.

(S.K.Keshote, J)
(Vipul)